

## Barker, Emily

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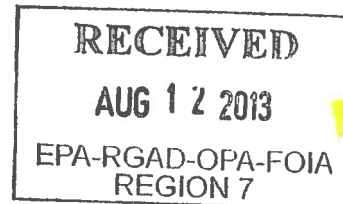
**From:** Bagley, Melissa  
**Sent:** Monday, August 12, 2013 3:24 PM  
**To:** Barker, Emily  
**Subject:** FW: Thomas Smith  
**Attachments:** FOIA Request to COE regarding Thomas Smith Property.pdf

Emily- This looks like a FOIA to me, specifically in regard to item 4, copied below. Let me know how I should handle the processing of this request.

4. All documents reflecting communications between the United States Army Corps of Engineers and Mr. Tom Smith or any party allegedly representing or in the employ of Mr. Tom Smith regarding the Smith property.

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**From:** Ford, Bill (LG) [mailto:WFord@LATHROPGAGE.COM]  
**Sent:** Monday, August 12, 2013 2:03 PM  
**To:** Bagley, Melissa  
**Cc:** Garcia, Delia  
**Subject:** RE: Thomas Smith



Melissa,

I am glad the tour was helpful.

I will let Mr. Smith know he may proceed right away with any erosion control work including seeding. We also look forward to your response as soon as possible on the rip rap and stone work discussed. As you know it rained again last night and the water keeps coming up making that work more difficult all the time.

The only letter I am aware of is the one dated April 17, 2009. Another copy of which is attached.

I similarly request that if you have any records of the conversation between Mr. Donahue of the Corps of Engineers and Mr. Flick that you provide those records to me. I believe such records would have been covered by my earlier FOIA request to the Corps but I was not provided anything from the COE on that topic. Another copy of that FOIA request is attached.

As we generate or discover additional documentation supporting the agricultural exemption we will provide it to you promptly.

Bill Ford  
Lathrop & Gage  
2345 Grand Boulevard  
Kansas City, Missouri 64108  
816 460-5817  
Fax 816 292-2001

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# LATHROP & GAGE<sub>LLP</sub>

MARGARET H. RICHARDS  
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2345 GRAND BOULEVARD, SUITE 2200  
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PHONE: 816.292.2000  
FAX: 816.292.2001

February 8, 2013

## VIA E-MAIL AND U.S. MAIL

Freedom of Information Officer  
U.S. Army Corps of Engineers  
Kansas City District  
Office of Counsel, Room 665  
601 E. 12th Street  
Kansas City, MO 64106-2824  
[foia-nwk@usace.army.mil](mailto:foia-nwk@usace.army.mil)

Re: FOIA Request for records pertaining to Thomas Smith, 1/23/13 referral to the EPA from US Army Corps of Engineers regarding Section 404 of the Clean Water Act

Dear Freedom of Information Officer:

This letter is a FOIA Request for records in the possession of the US Army Corps of Engineers (COE) pertaining to Thomas Smith of 1701 East 147th Street, Kansas City, Missouri, and specifically related to the COE letter of 1/23/13 (attached) encompassing a referral to the EPA under Section 404 of the Clean Water Act.

Pursuant to the Freedom of Information Act (5. U.S.C. § 552), we hereby request a copy of the following materials maintained by your agency:

1. All documents (including but not limited to photographs, records and reports) in the possession of the United States Army Corps of Engineers related to alleged violations of the Clean Water Act on the property located at Section 33, Township 47 north, range 33 west, in Kansas City, Jackson County, Missouri (the "Smith Property").
2. All documents reflecting communications between the United States Army Corps of Engineers and the EPA regarding the Smith property.
3. All documents reflecting communications between the United States Army Corps of Engineers and any other state or federal agency, including

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the Missouri Department of Natural Resources regarding the Smith property.

4. All documents reflecting communications between the United States Army Corps of Engineers and Mr. Tom Smith or any party allegedly representing or in the employ of Mr. Tom Smith regarding the Smith property.

In order to help you determine my status for the purpose of assessing fees, please be advised that I am the attorney for Tom Smith. I am willing to pay any reasonable search, review, and duplication fees for this request up to \$500. If you think that the fees will exceed \$500, please contact me.

Thank you for your attention to this matter and if you have any questions, please feel free to contact me at (816) 460-5738.

Very truly yours,

Lathrop & Gage LLP

By: Margaret Richards  
Margaret H. Richards



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**KANSAS CITY DISTRICT, CORPS OF ENGINEERS**  
**635 FEDERAL BUILDING**  
**601 E 12<sup>TH</sup> STREET**  
**KANSAS CITY, MO 64106-2824**

January 23, 2013

Regulatory Branch  
(2012-00776)

Mr. Thomas Smith  
1701 East 147<sup>th</sup> Street  
Kansas City, Missouri 64146

Dear Mr. Smith:

This letter concerns your recent construction of three lakes and extensive modification of two previously constructed lakes on your property. The activity is located in two unnamed tributaries of the Blue River and associated wetlands and lakes in Section 33, Township 47 north, Range 33 west, in Kansas City, Jackson County, Missouri. Ms. Kailey Rippen and Mr. Michael Daehler of the Kansas City Regulatory Office inspected the project site on September 21, 2012 and determined that the work was done in Corps of Engineers regulatory jurisdiction without the required authorization. Please reference our previous letter to you dated November 16, 2012.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 403). Federal regulations at 33 Code of Federal Regulations (C.F.R.) Parts 320-332 require that a DA permit be issued prior to initiation of any activity which is within the Corps of Engineers' regulatory jurisdiction. You are reminded that your existing activity has not received Corps authorization; therefore, in accordance with Part 326 of the regulations, you and all others involved are hereby cautioned to do no further work in the Corps' jurisdiction without proper authorization.

Effective as of the date of this letter, and in accordance with the January 19, 1989, Memorandum of Agreement Between the Department of the Army and the Environmental Protection Agency concerning Federal Enforcement for the Section 404 Program of the Clean Water Act (MOA) and our regulations at Part 326, we have referred this case to the Region 7 offices of the U.S. Environmental Protection Agency (EPA) for enforcement action. While we have closed this case for our purposes, we remain available to assist EPA in any action they may take.

If you have any questions concerning this matter, please feel free to write me or call my Regulatory Enforcement Coordinator, Mr. David Hibbs at 816-389-3136 (FAX 816-389-2032), or the Project Manager for the case, Ms. Kailey Rippen at 816-389-2123.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Frazier", is written over a horizontal line.

Mark D. Frazier  
Chief, Regulatory Branch  
Operations Division

**Copies Furnished (electronically):**

**Environmental Protection Agency  
Water Resources Protection Branch  
Environmental Protection Agency  
Ms. Diane Huffman, Enforcement Division  
U.S. Fish and Wildlife Service, Columbia, Missouri  
Natural Resources Conservation Service  
Jackson County Field Office  
Missouri Department of Natural Resources  
Missouri Department of Conservation  
Mr. David Flick, Terra Technologies**